

AMENDED IN ASSEMBLY MAY 24, 2004

AMENDED IN ASSEMBLY APRIL 15, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1957

**Introduced by Assembly Members Frommer, Chu, Pavley, and
Ridley-Thomas
(Principal coauthor: Assembly Member Koretz)**

February 12, 2004

An act to add Sections 14982 and 14983 to the Government Code, and to add Article 5 (commencing with Section 110242) to Chapter 2 of Part 5 of Division 104 of the Health and Safety Code, relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1957, as amended, Frommer. Prescription drugs.

Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of the packaging, labeling, and advertising of food, drugs, devices, and cosmetics, under the administration of the State Department of Health Services.

Existing law provides that any pharmacy located outside of this state that delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state is considered a nonresident pharmacy and requires a nonresident pharmacy to register with the California State Board of Pharmacy and comply with all lawful directions of and requests for information from the state in which it is a resident.

Existing federal law requires any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug that is imported or offered for import into the United States to register with the federal Secretary of Health and Human Services, report a list of each drug introduced for commercial distribution, and provide required information and statements.

This bill would require the department to establish a Web site on or before July 1, 2005, to facilitate the safe purchase by California residents of prescription drugs at reduced prices. It would require that the Web site establish electronic links to pharmacies that are located in Canada and that meet specified requirements. The bill would require the department's Web site to include price comparisons of prescription drugs, including prices charged by licensed pharmacies in the state and Canadian pharmacies that provide mail order service to the United States and whose Web sites are linked to the department's.

Existing law authorizes the Department of General Services to administer a coordinated prescription drug bulk purchasing program under which the department may enter into contracts on a bid or negotiated basis with manufacturers and suppliers of single-source or multisource drugs and obtain from them discounts, rebates, and refunds as permissible under federal law. Existing law requires certain state agencies to participate in the program and authorizes any other state, local, and public agency governmental entity to elect to participate in the program.

This bill would require the department to *coordinate a review of* state departments and agencies that purchase prescription drugs to determine which state programs may save significant state funds by purchasing from ~~Canadian~~ sources *other than those from which the state now purchases, including Canadian sources that meet the requirements to be listed on the Web site and established by the bill*. The bill would require the department to report to the Legislature and recommend options to facilitate ~~prescription drug importation~~ *more cost-effective acquisition of prescription drugs*. The bill would authorize the department to establish pilot programs under which purchases of prescription drugs from Canada would be made at reduced prices for purposes of state departments and agencies.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 14982 is added to the Government Code, to read:

14982. (a) The department shall coordinate a review of state departments and agencies that purchase prescription drugs to determine which state programs may save significant state funds by purchasing from ~~Canadian sources~~ *sources other than those from which the state now purchases, including Canadian sources that meet the requirements of Section 110242 of the Health and Safety Code*. State departments to be reviewed shall include, but not be limited to, all of the following:

(1) The State Department of Health Services.

(2) The Managed Risk Medical Insurance Board.

(3) The Department of General Services.

(4) The California Public Employees' Retirement System (CalPERS).

(b) The department shall report its findings based on the review required under subdivision (a) to the Legislature and shall recommend options to the Legislature, including conducting pilot programs, to facilitate ~~prescription drug importation~~ *more cost-effective acquisition of prescription drugs*. The recommendations shall include a determination of the need to seek any federal approvals or waivers.

SEC. 2. Section 14983 is added to the Government Code, to read:

14983. (a) The department may establish pilot programs under which purchases of prescription drugs from Canada are made at reduced prices for purposes of state departments and agencies.

(b) As a condition of implementing any pilot program under this section, the department shall seek and obtain all appropriate federal waivers and approvals necessary for the implementation of that pilot program.

SEC. 3. Article 5 (commencing with Section 110242) is added to Chapter 2 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 5. Prescription Drug Web Site

110242. (a) The department shall establish a Web site on or before July 1, 2005, that will facilitate the safe purchase by California residents of prescription drugs at reduced prices.

(b) (1) The Web site shall include price comparisons of the 50 most commonly prescribed brand name prescription drugs, including typical prices charged by licensed pharmacies in the state and by Canadian pharmacies that provide mail order service to the United States and whose Web sites are linked to the department's Web site pursuant to paragraph (2). *The Web site may also establish electronic links to Web sites that provide information to consumers about options for finding affordable prescription drugs, including patient assistance programs operated by pharmaceutical manufacturers and prescription drug benefits available to Medicare beneficiaries.*

(2) (A) The Web site shall establish electronic links to pharmacies that are located in Canada and that meet the following requirements:

(i) Are licensed by the province in which they are located.

(ii) Comply with the requirements of a nonresident pharmacy as specified in Section 4112 of the Business and Professions Code, except that for purposes of this section all references to "state" in subdivision (d) of Section 4112 of the Business and Professions Code shall be deemed to refer to "province in which it is located."

(iii) Require a prescription from a patient's personal physician, *who is licensed to practice in the United States.*

(iv) Require a patient medical history.

(v) Require a signed patient agreement.

(vi) Ship prescription drugs in tamper proof original manufacturer containers to individuals in the United States, *unless the consumer requests to receive the drug in a childproof container.*

(vii) Include a physical address and pharmacy license number on its company Web site.

(viii) Sell only prescription drugs that have been approved for sale in Canada by the Therapeutic Products Directorate of Health ~~Canada.~~

1 ~~(ix)~~ Canada and for which no exemption is claimed under
2 Section 37 of the Canadian Food and Drugs Act or any other
3 similar provision of Canadian law.

4 (ix) Comply with state law regarding the documentation of the
5 pedigree of prescription drugs.

6 (x) Does not require a consumer to sign a waiver of liability or
7 a release of liability for a negligent act by the pharmacy.

8 ~~(x)~~

9 (xi) Any other requirement established by the department to
10 ensure the safety, accessibility, and affordability of prescription
11 drugs.

12 (B) The Web site may establish electronic links to other
13 appropriate Web sites to allow California residents to safely
14 purchase prescription drugs at affordable prices, including links to
15 Web sites of health plans and health insurers regarding their
16 prescription drug formularies.

17 (3) Any electronic link to the department's Web site pursuant to
18 paragraph (2) shall be deleted if the department determines that
19 the requirements of paragraph (2) are no longer met.

